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Letter dated 25 February 2016 from the Permanent Representative of Saudi Arabia to the United Nations addressed to the President of the Security Council

I have the honour to transmit to you a letter from Najib Ghadbian, Special Representative of the National Coalition of Syrian Revolutionary and Opposition Forces to the United Nations, dated 25 February 2016 (see annex).

I would be grateful if you could circulate the present letter and its annex as a document of the Security Council.

(*Signed*) Abdallah **Al-Mouallimi**
Permanent Representative

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Annex to the letter dated 25 February 2016 from the Permanent Representative of Saudi Arabia to the United Nations addressed to the President of the Security Council

On behalf of the High Negotiations Committee for the National Coalition of Syrian Revolutionary and Opposition Forces and as requested by Riad Hijab, Head of the Committee, it is my honour to transmit to you the Committee's most recent memorandum of 24 February 2016 (see enclosure). The memorandum discusses the joint declaration by the United States of America and the Russian Federation regarding a cessation of hostilities ("temporary ceasefire").

(*Signed*) Najib **Ghadbian**
Special Representative to the United Nations

Enclosure

High Negotiations Committee for the National Coalition of Syrian Revolutionary and Opposition Forces

Memorandum on the joint declaration by the United States of America and the Russian Federation regarding a cessation of hostilities ("temporary ceasefire")

The High Negotiations Committee affirms its earnest and sincere desire to work towards a political solution that achieves a political transition in Syria, starting with the creation of a transitional governing body with full executive powers that excludes Bashar al-Assad and his clique, as stipulated in the Geneva communiqué of 2012, Security Council resolutions 2118 (2013) and 2254 (2015) and all other resolutions to that effect.

The Committee further affirms its full rejection of terrorism and extremism in all shapes and forms, including the practices of "Daesh", Al-Qaeda, Hezbollah, the sectarian terrorist militias that have entered Syria from Iraq, Lebanon, Iran, and Afghanistan, the "Quds force" militia of the Iranian Revolutionary Guards and all similar militias. We call upon the international community to carry out its legal responsibilities to protect the Syrian people from war criminals and war crimes, as stipulated in the Charter of the United Nations and in the Geneva Conventions and Protocols, and to carry out all its other legal obligations under international humanitarian and human rights law.

The Committee has carefully reviewed the joint declaration released by the United States of America and the Russian Federation regarding a cessation of hostilities ("temporary ceasefire"). We value and view positively all efforts to stop the killing, especially in the light of the ongoing bombardment of civilian areas, the manifold crimes being perpetrated by regime forces and their associated sectarian militias and the continued indiscriminate targeting of civilians by Russian forces.

The Committee believes that a temporary two-week cessation of hostilities is an important opportunity to test how serious our adversaries are about complying with the agreed-upon terms. As such, the Committee has put forth a set of observations that will gauge if the cessation of hostilities will be successful. Serious and effective efforts are necessary to protect Syrian civilians, and such efforts would foster conditions conducive to the initiation of a political process meeting Syrians' aspirations for freedom, as stipulated in the Geneva communiqué. The Committee sees it as imperative that the following observations are addressed before any cessation of hostilities is enacted to ensure the participation of all sides and to increase the chances for implementation on the ground:

1. Given that Russia is a principal party to the conflict, the Committee finds it surprising that the Russian Federation is identified as a partner to the United States in ensuring the implementation of the cessation of hostilities, verifying adherence to the terms of the declaration and enforcing compliance. It would be more proper for a committee comprised of the "Friends of Syria" countries to carry out such tasks and to ensure that Russia enters into the cessation of hostilities by pledging to stop its military and paramilitary operations on Syrian soil.

2. The declaration has also ignored the role of Russia and Iran in combat operations and in perpetrating violations against the Syrian people, such as the shelling of populated areas, the use of starvation of civilians as a weapon of war and perpetrating forced displacements. For the cessation of hostilities to be effective and conducive to implementation, the declaration must stipulate an end to all combat operations by foreign Powers, specifically those Powers (Iran and Russia) that target the Syrian opposition directly. Those Powers must be obliged by the cessation of hostilities to cease their combat operations, as they are the principal parties to hostilities fighting on behalf of the regime.

3. The declaration legitimizes Russian operations in Syria by authorizing the Russian Federation to target "terrorist organizations," in the phrasing of the United Nations. Regime forces are granted the same status because they, too, are permitted to continue their operations against the aforementioned groups. Considering that both the regime and Russia have insisted on referring to all opposition forces as terrorist groups, the regime and Russia are left free to interpret the United Nations terrorism "classification" in the same misleading manner that they always have in order to target the opposition. Through this loophole, the regime and Russia will also be able to continue their criminal collaboration on aerial bombardments that have killed thousands of civilians and destroyed schools, hospitals and other civilian targets. All such operations are outside the framework of the cessation of hostilities;

4. The declaration does not grant opposition forces the advantages that are provided to the regime, which is described as a "legitimate force" permitted to continue military operations. The declaration ignores the opposition's need to defend itself from attacks by terrorist groups that target it more than the regime. It is preferable to forbid the regime from carrying out any combat operations in the light of its track record of perpetrating war crimes.

5. The second provision of paragraph 1 of the declaration's annex stipulates that the fighting groups should pledge to refrain from fighting the regime army or any force allied to it. This is a dangerous provision, since it grants Iran-affiliated terrorist groups the legitimacy that they lack and does not give the opposition the right to defend itself from these terrorist militias, which have been unlawfully present on Syrian soil and should not be granted legitimacy or guarantees in the text of a declaration with the force of law.

6. As a result of the above flaws, the mechanism through which the sectarian militias and mercenary groups tied to Iran more than the regime are to announce their adherence to the cessation of hostilities is not specified. It is essential that this announcement be made on time and in a clear fashion in order for the aforementioned groups to confirm their adherence to the cessation of hostilities.

7. The declaration does not include a clear demarcation of the territories excluded from the cessation of hostilities because they are controlled by organizations classified as terrorist, according to Security Council resolutions. Instead, the matter is left to be defined by the United States and the Russian Federation, which is considered a supervisory Power of the cessation of hostilities, despite being the main party carrying out combat operations. The excluded territories should be clearly demarcated before any cessation of hostilities goes into effect in order to ensure that Russian, Iranian and regime forces obey the declaration's provisions and cease bombarding civilian areas under the guise of

targeting "terrorist groups", as Russia has done since the start of its combat campaign.

8. The declaration offers no indication of any requirement to adhere to the principles of international humanitarian law regarding the protection of civilians, in particular the Geneva Conventions and the two additional Protocols. These principles apply even in the course of a war against terrorist organizations. It is vital to actualize the principle of distinction between civilians and combatants by declaring that any targeting of civilians will be considered a violation of the cessation of hostilities.

9. The Committee views provisions of paragraphs 1 and 2 in the declaration's annex as a clear requirement to immediately and unconditionally implement the provisions contained in paragraphs 12, 13 and 14 of Security Council resolution 2254 (2015). The Committee considers the non-implementation of these paragraphs at the start of the cessation of hostilities to be a failure to abide by the declaration.

10. There must be a clearly defined time frame for the passage or conclusion of the temporary cessation of hostilities. The Committee believes that the specification of a two-week, renewable time frame should be dependent on the success of the cessation of hostilities, the implementation of the provisions contained in paragraphs 12, 13 and 14 of Security Council resolution 2254 (2015) and forward movement in the political process.

11. A clear mechanism should be created and operationalized to enforce compliance and guarantee that Russia, Iran, regime forces and regime-allied militias do not violate the declaration.

12. A clear, trustworthy and neutral mechanism should be created and operationalized to delineate steps for observing and investigating whether all parties implement the provisions and requirements of the declaration.

13. An impartial, credible and trusted actor must be present to identify those responsible for violations of the declaration's provisions.

14. A clear mechanism must be created and operationalized to report violations by parties to the cessation of hostilities, along with a required time frame for addressing these violations.

15. The declaration did not define consequences should the regime, its allied militias, Russian forces or Iranian forces violate their stipulated obligations as parties to the cessation of hostilities. On the other hand, such consequences are implied for opposition forces, since the declaration notes that violations will result in a loss of protection for the offending party. This means that the offending party will be excluded from the ceasefire proceedings, allowing that party to be targeted by Russian or regime forces under that pretence. There is no actor able to carry out similar operations if the regime or its allied militias commit a violation.

16. The locations of the respective forces and of mediators must be specified before the cessation of hostilities takes effect, but the declaration only uses the phrase "refrain from ... seeking to acquire territory". This phrase is meaningless on the level of legal obligations. The cessation of hostilities must include a clear requirement, beginning on the day the cessation of hostilities comes into effect, that

forbids the regime from mobilizing its forces or upgrading its firepower in areas under its control.

17. The declaration does not contain any provision preventing Russian forces, regime forces and regime-allied militias from exploiting the premise of "fighting Daesh and Al-Qaeda" to strike the opposition forces.

18. Finally, the Committee affirms that, in order to guarantee the success of the cessation of hostilities, the obligations imposed under it must be equal, total and incumbent upon all sides, and that it must be implemented in a clear, well-defined fashion through operating mechanisms that cannot be questioned later.

The Committee further affirms that the rights of the Syrian people to defend themselves, in a legitimate fashion and in line with the provisions of the Charter of the United Nations, must be respected, along with the rights of the opposition to fight all terrorist organizations. This should be explicitly specified in a provision that clearly guarantees that Russian, regime and allied air forces will not target the opposition, either for defending itself or for fighting terrorist organizations.

The Committee will remain in contact with its brothers and friends to better achieve conditions that will spare Syrians further killing and destruction and that will fulfil Syrian aspirations to build a pluralistic, patriotic administration without Assad, his clique and all who have their hands drenched with the blood of the Syrian people.